

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE - NR/S Mantua Mill Road, 750' SE of the C/L of Butler Road (14123 Mantua Mill Road) 4th Election District 3rd Councilmanic District Harry Z. Isaacs Petitioner

BEFORE THE DEPUTY ZONING COMMISSIONER Case No. 88-348-XA

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception to permit a private (not commercial) kennel in an R.C. 2 zone, and a variance to permit a minimum setback of 110 feet from any property line in lieu of the required 200 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petitioner were William T. Sadler, Surveyor; Hugh E. Gelston, Real Estate Agent and Appraiser; and Ms. Collette Poisson. Mr. and Mrs. Samuel Banks appeared as Protestants.

Testimony indicated that the subject property is split zoned R.C. 2 and R.C.4., and consists of approximately 32.92 +/- acres. Mr. Isaacs testified that he has lived at 14123 Mantua Mill Road for approximately 17 years. He indicated that shortly after he moved to the subject property, he obtained a permit for the construction of a building approximately 25 feet long by 15 feet wide to house his Rotweillers. He indicated that at the time he applied for the building permit, the County was advised of his plans to construct a kennel. The kennel building and surrounding fenced in dog run area are completely within the R.C.2 zone.

Mr. Isaacs testified that he is a former president of the Maryland Kennel Club and has for many years been active in raising Rotweillers strictly for private purposes. He testified that at the present time he has six Rotweillers, and that generally in the past, he has had no more than a maximum of seven adult

dogs at any one time.

Mr. Isaacs testified that he has a caretaker who maintains the kennel. He testified that the dogs are not let out of the building before 7:00 AM and are generally in by 5:00 PM during winter hours and 7:30 PM during the summer hours. Mr. Isaacs testified that the dogs never run loose or unsupervised.

Ms. Poisson testified that she is employed by Mr. Isaacs and has resided on the property since Mr. Isaacs' purchase of same. She indicated that the dogs are generally in by 7:30 PM each night and never run loose or unsupervised. She testified that there are numerous other property owners in the area who own dogs who may be heard throughout the night from time to time.

Mr. Sadler testified that he prepared Petitioner's Exhibit 1 and that it is a fair and accurate representation of the subject property and the location of the existing kennel.

Mr. Gelston testified that he has been familiar with the area for about 40 or 50 years, that he has personally visited the subject property, and that the property is heavily wooded. He indicated that the Greenspring Kennel is not far from the subject property. Mr. Gelston testified that due to the terrain of the property, the building constructed 17 years ago could not have been located 200 feet from any property line. He further testified that in his opinion the use proposed meets the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and that the health, safety and general welfare of the community would not be adversely affected. He further believes that requiring strict compliance with the 200-foot setback requirement would result in practical difficulty and unreasonable hardship upon the Petitioner.

Mr. & Mrs. Samuel Banks, one of the adjoining property owners, appeared and testified. Mr. Banks testified that he and his wife have lived in the area for the past six years. He further testified that they do not object to the requested variance for the location of the existing kennel or the special excep-

tion for a "private kennel." He indicated that recently, they have experienced no problems as a result of Mr. Isaacs owning numerous dogs. After discussions, the parties came to an agreement, as to what, if any, restrictions should be placed on the operation of the kennel, which as appropriate, will be set forth hereinafter.

The Petitioner seeks relief from Section 421.1, pursuant to Section 307 and from Section 1401.2C.2, pursuant to Section 502.1 of the B.C.Z.R.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973).

It is clear from the testimony that if the variance was granted, such use as proposed would not be contrary to the spirit and intent of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirement from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

It is clear that the B.C.Z.R. permits the use proposed in an R.C. 2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed

use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioner do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted, with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of March, 1988 that a private (not commercial) kennel in an R.C. 2 zone, be permitted, and a minimum setback of 110 feet from any property line in lieu of the required 200 feet, in accordance with Petitioner's Exhibit 1, be approved, and as such, the Petitions for Special Exception and Zoning Variance are hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner shall have no more than six (6) adult dogs on the property at any one time. In the event that any of the dogs has a litter, the puppies, after four (4) months of age, shall either be counted as one of the permitted six (6) dogs or be kept in a separate location away from the subject property.

#### PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a private kennel (not commercial) in an R.C. 2 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Harry Z. Isaacs (Type or Print Name) Signature: [Signature] Address: [Address] City and State: [City and State] Signature: [Signature]

Legal Owner(s): Harry Z. Isaacs (Type or Print Name) Signature: [Signature] Address: 14123 Mantua Mill Road (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 14123 Mantua Mill Road Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 204 W. Pennsylvania Avenue, 1105 (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 204 W. Pennsylvania Avenue, 21204 (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of March, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 11th day of March, 1988, at 9 o'clock A.M.

[Signature] Zoning Commissioner of Baltimore County.

ESTIMATED LENGTH OF HEARING: 1/2 HR. AVAILABLE FOR HEARING: 11:00 A.M. - 12:00 P.M. MON./TUES. - NEXT TWO MONTHS ALL OTHER DATE: 11-14-87 REVIEWED BY: CDC

#### PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 421.1 to permit a minimum setback of 110' from any property line in lieu of the required 200'.

Existing building and dog runs have been existing in the present location since the early 1970's. The cost to move the existing structures, if required, would present an extreme hardship and practical difficulty.

For other reasons to be presented at the scheduled hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Harry Z. Isaacs (Type or Print Name) Signature: [Signature] Address: [Address] City and State: [City and State] Signature: [Signature]

Legal Owner(s): Harry Z. Isaacs (Type or Print Name) Signature: [Signature] Address: 14123 Mantua Mill Road (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 14123 Mantua Mill Road Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 204 W. Pennsylvania Avenue, 1105 (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

Address: 204 W. Pennsylvania Avenue, 21204 (Type or Print Name) Phone No.: [Phone No.] City and State: [City and State] Signature: [Signature]

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[Signature] Zoning Commissioner of Baltimore County.

W. T. SADLER Surveyor

DESCRIPTION TO ACCOMPANY APPLICATION FOR SPECIAL EXCEPTION AND VARIANCE FOR PRIVATE KENNEL

LOCATION: HARRY Z. ISAACS PROPERTY 14123 MANTUA MILL ROAD 4TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

DESCRIPTION:

Beginning for the same in the center of Mantua Mill Road, southeasterly 413 feet from the center of Butler Road, Maryland Route 128, and running thence North 58 degrees East 1,284 feet South 41 degrees 26 minutes East 662.5 feet South 40 degrees 16 minutes East 333 feet North 82 degrees 42 minutes West 519.2 feet South 75 degrees 11 minutes West 1,073.4 feet to the center of Mantua Mill Road, thence along the center of said road North 31 degrees 18 minutes West 208 feet and North 38 degrees 57 minutes West 130.2 feet to the place of Beginning.

NOTE: The above description has been prepared from deeds and records.





March 16, 1988

Newton A. Williams, Esquire  
Nolan, Plumbhoff & Williams  
204 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: Petitions for Special Exception and Zoning Variance  
NE/S Mantua Mill Road, 750' SE of the c/l of Butler Road  
(14123 Mantua Mill Road)  
4th Election District - 3rd Councilmanic District  
Harry Z. Isaacs - Petitioner  
Case No. 88-348-XA

Dear Mr. Williams:

Enclosed please find the decision rendered on the above-referenced case. The Petitions for Special Exception and Zoning Variance have been Granted, subject to the restrictions noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

AMN:bjb  
Enclosures

cc: Mr. William T. Sadler  
501 Main Street, Reisterstown, Md. 21136

Mr. Hugh E. Gelston  
19600 Woodbank Lane, Phoenix, Md. 21131

Mr. & Mrs. Samuel E. Banks  
3454 Butler Road, Glyndon, Md. 21071

People's Counsel

File

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
PETITION FOR VARIANCE  
NE/S Mantua Mill Rd., 750' SE of the c/l of Butler Road  
C/L Butler Rd. (14123 Mantua Mill Rd.), 4th District

HARRY Z. ISAACS, Petitioner : Case No. 88-348-XA

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Phyllis Cole Friedman*  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel  
Room 423, Court House  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 29th day of January, 1988, a copy of the foregoing Entry of Appearance was mailed to Louis G. Close, Esquire, and Newton A. Williams, Esquire, Nolan, Plumbhoff & Williams, Chartered, Suite 1105, Hampton Plaza, 300 E. Joppa Rd., Towson, MD 21204-3012, Attorneys for Petitioner.

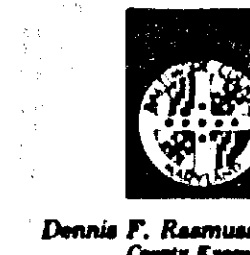
*Peter Max Zimmerman*  
Peter Max Zimmerman

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Halton  
Zoning Commissioner

Date: MAR 02 1988

Newton A. Williams, Esq.  
Nolan, Plumbhoff & Williams, Chartered  
Suite 1105, Hampton Plaza  
300 E. Joppa Road  
Towson, Maryland 21204-3012



Re: Case number: 88-348-XA  
Petitions for Zoning Variance and Special Exception  
NE/S Mantua Mill Road, 750' c/l Butler Road  
(14123 Mantua Mill Road)  
4th Election District - 3rd Councilmanic District  
Petitioner: Harry Z. Isaacs

Dear Mr. Williams:

Please be advised that \$109.74 is due for advertising and posting of the above-referenced property. All advertising and posting fees must be paid prior to the hearing. Do not remove the sign(s) from the property from the time it posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED  
ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and forward to the Zoning Office, County Office Building, Room 113, Towson, Maryland 21204.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 3/9/88 ACCOUNT: 80115-000

AMOUNT: \$ 109.74

RECEIVED FROM: Harry Z. Isaacs

FOR: 3/4/88 Hearing

ES: 109.74

1097418 88-348-XA

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Halton  
Zoning Commissioner

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Case number: 88-348-XA  
Petitions for Zoning Variance and Special Exception  
NE/S Mantua Mill Road, 750' c/l Butler Road  
(14123 Mantua Mill Road)  
4th Election District - 3rd Councilmanic District  
Petitioner: Harry Z. Isaacs  
DATE/TIME: FRIDAY, MARCH 11, 1988 at 9:00 a.m.

\*FOR SIGN DATE CALL 494-3391\*

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 3/9/88 ACCOUNT: 80115-000

AMOUNT: \$ 100.00

RECEIVED FROM: Harry Z. Isaacs

FOR: 3/4/88 Hearing

ES: 100.00

1000000 88-348-XA

#### CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

88-348-XA

District: 4th Date of Posting: February 24, 1988

Posted for: Variance

Petitioner: Harry Z. Isaacs

Location of property: NE/S Mantua Mill Rd, 750' c/l Butler Rd  
(14123 Mantua Mill Rd.)

Location of signs: NE/S of Mantua Mill Rd. in front of subject property

Remarks: S.E. Isaacs

Posted by: S.E. Isaacs Date of return: March 4, 1988

Number of Signs: 2

#### "DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD, Feb. 18, 1988

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Feb. 18, 1988.

THE JEFFERSONIAN,

*Susan Shuler Obrecht*  
Publisher

# 33.96

#### QUICK LETTER

cc: Mr. Harry Z. Isaacs, (14123 Mantua Mill Rd.), Glyndon, Md. 21071  
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED  
204 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204  
PHONE (301) 623-7800  
cc: Surveyor Wm. T. Sadler, 501 Main Street, Reisterstown, Md. 21136

TO: Robert Clark, Zoning Office  
Jeff Plumbhoff, Zoning Inspector  
Harry Z. Isaacs, County Office Building  
HARD DELIVERED  
Dear Mr. Clark and Mr. Plumbhoff:

We have promised Mr. Plumbhoff to file this case, and we are herewith planning it.  
We do not want it at all still we are sure that we have asked for all of the relief needed.  
We will check it with your staff, although Mr. Sadler already has. We greatly appreciate the comments of Carl Richards and in this case on the matter. IN THE MEANWHILE DO NOT SET THE CASE

SIGNED Louis G. Close  
LOUIS G. CLOSE

#### "DUPLICATE" CERTIFICATE OF PUBLICATION

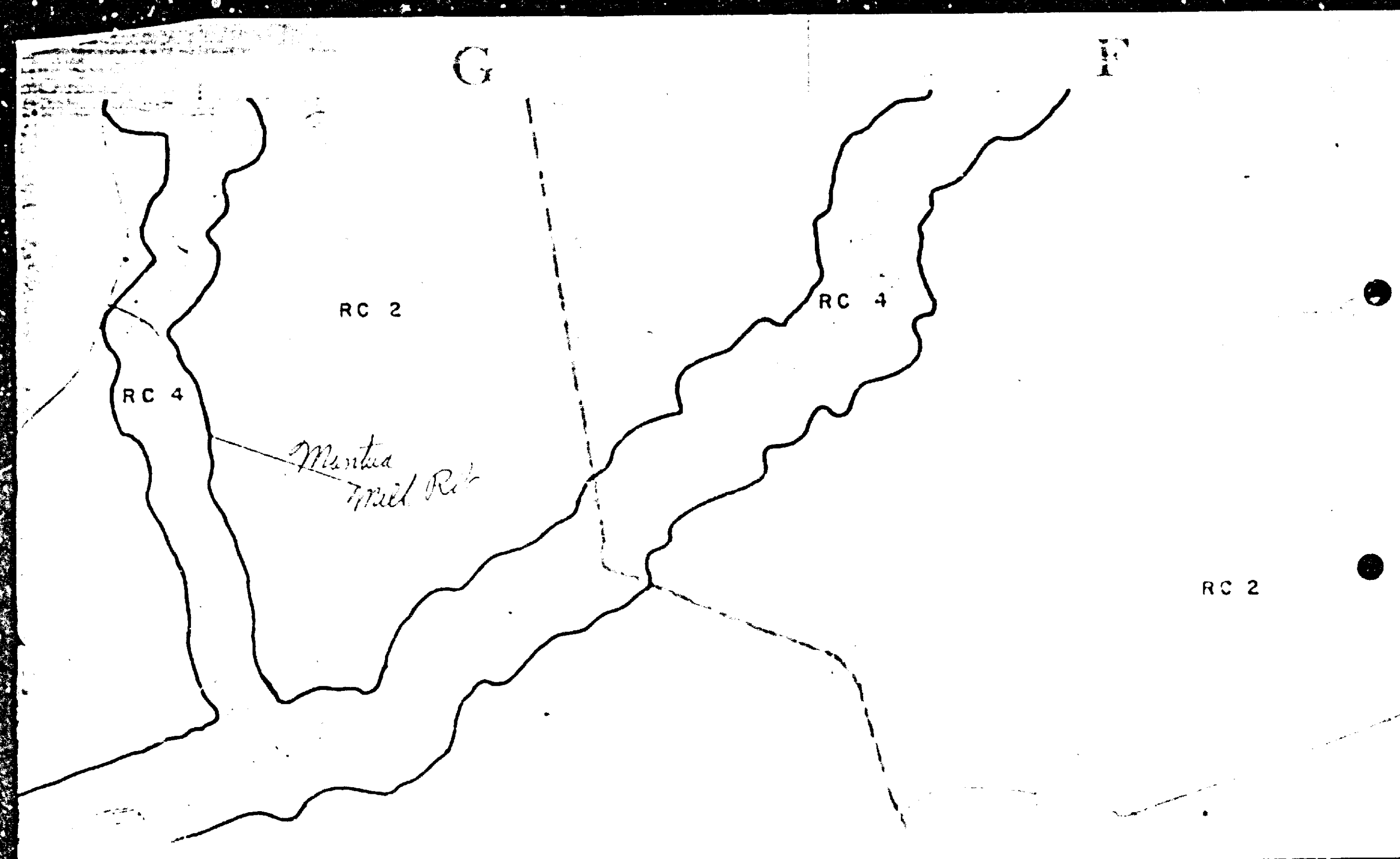
TOWSON, MD, Feb. 17, 1988

THIS IS TO CERTIFY that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Feb. 17, 1988.

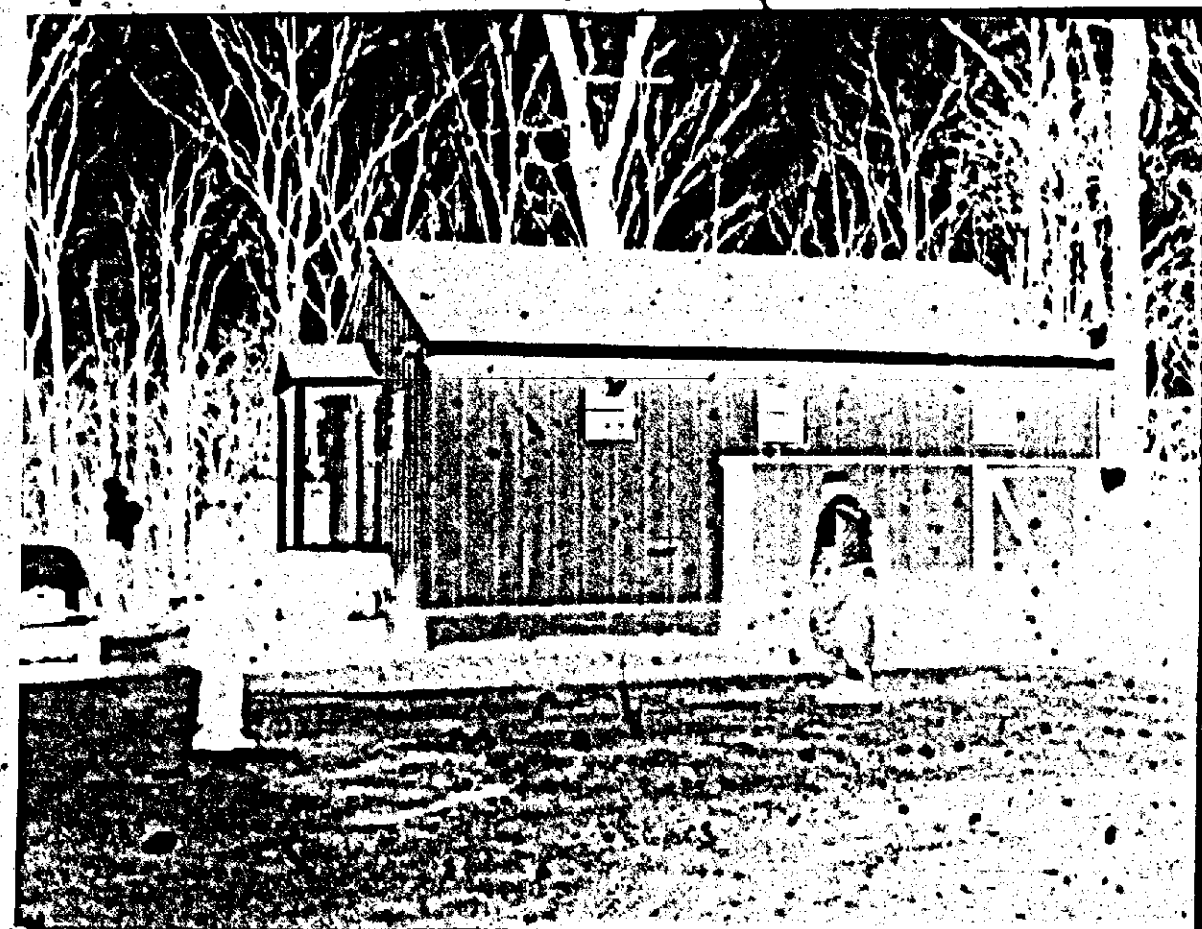
TOWSON TIMES,

*Susan Shuler Obrecht*  
Publisher

#60.18







A. Jesse Kennel Building looking west



B. Looking toward kennel from west  
Pet. #

PETITIONER'S  
EXHIBIT 2



C. Outdoor runs looking north



F. Access road looking W from kennel -  
house through trees



C. Outdoor Runs and kennel - west side



D. Outdoor runs and kennel - east side



E. Corner of outdoor runs - North corner  
looking north



H. View from kennel building and road  
looking south



I. - Jesse home



